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George Herman
CBS News

Dear George,

Last night's evening news took me back 35 years, to when I was part of two official investigations of Harlan, to one of the more shameful periods of our history and one of the more colorful, to what in my magazine writing days would have made quite a story.

Were I younger and with less planned and researched work, I'd do a book on it. In part I write you on the chance you think there could be some TV interest in telling an untold story and in recording a history that is recorded only officially. I have the records of one investigation and know where those of the other are available.

I also have other purposes. I was always too busy to keep a journal. There are now several academic interests in my work for archives on government in crisis. If anything comes of this one wants to record recollections of those things of which I was part. This can serve as notes for that purpose. It will record a fragment of the background and experience that influenced and enable some of the work of more immediate scholarly interest. (I was a Senate investigator between my newspaper and magazine days and before becoming part of intelligence during World War II.) And if it does not interest you or suggest those in TV who might be interested, maybe it will interest those kids of whom I have heard from time to time on radio, telling them what they neither hear nor see in Georgetown.

In the 1930s Harlan was almost an equivalent of Vietnam. With a population of about 50,000 among whom almost pure Elizabethan English was not uncommon the annual rate of murders was higher than that of all of New York State. Assassinations of those who would organize the union and of political candidates was not uncommon, nor were pitched battles over polling places and ballot boxes. Almost all the murders were from ambush.

One of the more original plots conceived by the coal-operators' association was getting rid of the octagenarian organizer brought in from Indiana, Peggy Dwyer, so called because he had lost a leg. All the gun thugs were deputized. The operators' chief thug was really named Ben Unthank. He was given $400 to kill Peggy, who worked out of the next county to the west, Bell. Unthank was also given the dynamite needed. But he figured why the hell should he take any chances when he could subcontract the job. So he did, for half what he had been given. There was then a chain of fee-splitters who figured it the same way until Chris Patterson, who had been given $20 for the job, got R.C.Tackett to do it for $10.00. That wing of the hotel went straight up in the air when Peggy was in bed. And what actually happened is that the metal bed turned over in the air, coming down on top of Peggy, protecting him. He was unhurt. And nothing happened to anyone else, either, not even after we took confessions under oath.

In fact, one of the operators, Ted Creech, threatened a Senate witness in the toilet on the northeast corner of the third floor of the Old Senate Office Building and was inducted for it. The operators were experienced in fixing juries and they fixed that one in Washington, too. I was a witness in that trial. The same method was used a few months later, when the Department of Justice followed up with criminal charges against something more than 60 corporations and individuals. For all this violence and murders, it seems odd that the case was known as U.S. v Mary Helen et al, but that was the name of the first mining corporation in the indictment.

The trial was about 100 miles north and I think a bit west of Harlan, in London, Laurel County, where the population, when court was not in session, was 1910, according to the road sign. I was the only one connected with the government who walked around alone and unarmed. Emarly each morning I took a three-hour walk in the mountains with an old lawyer

who had been lieutenant governor of West Virginia. But he carried a pen-knife and whittled as we strolled in the mountains before breakfast. I made local friends, easier for a 24-year-old where the federal government was not popular. And I alone in the official party was not from the Department of Justice or the FBI, so I had local sources of everything from booze to information. (It was a dry county and I was also the official party's rumrunner when the bootleggers' prices got too high. I ran it from Lexington, Ky., or Jellico, Tenn., in an old armored Buick of the Department's.)

When my sources told me when and how the jury was fixed and nobody from Washington would believe such a thing could happen, I decided it was time to return to the job at the Senate from which the Department had borrowed me because I knew most about the subject. I served as their expert on such things as duces tecum subpoenas. Something like the Washington people didn't expect followed immediately upon my departure, six murders, of gunthugs killing each other. I was the only one who knew how they came to pass and I was safely away only hours before the first of them. It and details of the personal lives of some who later became famous are the only parts of the story I can't tell.

It was like wild west. One Sunday, before we left Harlan for London, the late Brien McMahon, who was standing near it when we heard a noise, whipped the door of my hotel room open and there with his ear to it was a deputized thug, Ben Hickey, with a .45 on each hip. Brien was later a Senator and father of the atomic energy act. He was then assistant A.G. in charge of the Criminal Division.

Before the FBI agents poured in, when there was but one, the lawyers and me, we had a chauffeur who got so scared of being blown up when he turned the switch on that he went on an unended drunk. We had to spirit him out of Harlan - while being watched by the thug-deputies who were looking for local charges they could pin on us. Welly K. Hopkins, an assistant A.G. later hired by John Lewis as UMW general counsel when I was asked to recommend, Walter Gallagher, the youngest D.J. lawyer, and I did it with that armored Buick.

With these two stories it is my intention to give a little of the conditions under which the federal prosecution worked as much as local color.

The conditions of the miners, especially those even suspected of wanting the union, today seem incredible. Crime was almost an official monopoly and rakeoffs were not by any mob but by the operators, through the machinery of company towns. The operators were also without sympathy for each other if one was suspected of cottoning to Washington. I remember the one-armed lawyer for Peabody Coal and his engineering a nolo contendere in my room in London. Within days Peabody's Harlan mine was bombed and burned.

Miners were not paid enough to live on so they were always in debt to the company store, whose prices were always exceptionally high. They were paid in scrip, not money, and could spend it at the company store only. They were never out of debt and could not even move when they were in debt. Besides, the operators owned all the shacks.

Pearl Ramsham, who ran the Harlan-Wallins Coal Co., a small man who looked like a Central Castings job on a Yankee storekeeper, was probably the most effecient in skimming his own payroll. He had a real checkoff, a buck for a raffled turkey, a buck for a chance on a wreck of a car, etc. Any employee who complained was beaten up, pronto. And each employee was docked for each turkey raffled weekly.

Ben Lawson was called "Uncle Ben" because he had none of the attributes of an uncle except grey hair. He had the Harlan equivalent of Tiger Cages at his mines, private jails as I remember under the steps of either the offices or the company stores. He was the law, 100% of it.

There was an authentic hero, a lay preacher/miner actually named Marshall Musick. Not that many were not heroic. Just living there was heroism. But these until-then mountain-locked people rarely left. Thus the persistence of the Elizabethan speech. Musick was beaten up and crippled. He probably held the record for beatings survived. Once he was

kicked along a railroad track and beaten with gunbutts until he was though dead. But he stayed and preached and organized. He didn't even take his family out of Harlan until his house was shot up by a motorcade of deputies. As I recall after all these years, some of his kds were killed in bed and he took his wife and surviving kids to Tennessee and then returned to continue spreading the word.

Merely living in Harlan and working in the mines were acts of personal heroism then.

The operators could operate this tyranny because of their political control of the coal areas. It was enough to control Kentucky elections.

One of their lawyers and one of the leading defense lawyers at the trial was John Y. Brown. You may remember there is currently a politico/entrepreneur of this name. I think it is his son. Among the others in the government party who later became modestly famous were Henry Schweinhaut, later a judge. His widow, Margaret, is prominent in Montgomery County politics. J.M.McInerney, a Fordham lawyer and like most, a devout Catholic, was the FBI agent in charge. He switched to Justice from the FBI because of the fine impression he made on Brien, who was the protege of Homer Cummings, then A.G. (And later a friend of mine.Nixon was to buy his Forest Lane House when he was vice president.) Jim rose to chief of the Lands Division, later Criminal. He was a fine guy and wer became good friends. He taught me what I have forgotten, how to take his automatic pistol apart and put it together again blindfolded, so I could ride shotgun for him when there was no agent to do it. They worked in pairs. And there were times when I crouched behind the door of the car pointing that pistol to cover Jim when he walked up to the door of a mountain house. Exciting days for a 24-year-old!

No reporters were present until the trial started. Ray Daniell, of the Times, had a house where most of our parties were held. They were sometimes pretty wild. One night when I was working and not there a journalistic eminence of the day pursued a reluctant secretary with such vigor he broke her leg. All the rpporters were so drunk one of the other women phoned me. There was no doctor of the few in the area who was home. The only help I could get her was a vet! (I was surprised that the agent with whom she slept did nothing about this incident but I suppose that would have let his wife know.) At one of the early parties the Irishman from the New York Daily News made a crack about Hoover. He was yanked the next day, replaced by a man who was a different cat when he became a Washington columnist, George Dixon. He was then our "radical" and most improbably, had quarters with a preacher whose home was at the corner of Divinity and Sublimity. George wore his hair then almost as an Afro.

The way in which the jury was fixed was simple and effective even with sequestration. The operators bought up mortgages. It was not trick to let this be known through one of those guarding the jury. One of these men was one of my sources. Another was the clerk of the federal court. He and I became good friends. He trusted me when he did not trust the lawyers and agents. He was a nice guy who was trusted by the other local nice guys.

My best local friend was a lawyer who remained a close friend for years after he had to leave and until his marriage soured. He came from one of the more famous families. He was a Clay. Unlike the rest of his family, which represented power, he took the cases of the poor, which meant he could have no other practise. He got paid any way people could pay him. The land on which he built his home was a fee. So was most of the construction work and the materials. He was the local force for decency. Somehow he acquired three small weeklies in the area, The London Times, The Manchester Guardian and one more modestly named, The Mount Vernon Sentinel. Manchester was in the heart of feuding country. Once when he was away defending an unpopular client for the ACLU in Lexington his wife asked me to drive over the Manchester with her to try and collect some money owed them. She feared if he did it they would shoot him. Possible, too. But not a woman. And she was a pretty Portugese woman he had met in college in California. I remember that week well because when the London paper had to go to press she needed more copy. One of the stories I wrote was of the night before's second Lewis-Schmeling fight. (MY head was "Joe still champ; Max stil Schmelling." Oh, the groans!)

This friend was hipped on the ancestor for whom Mohammed Ali was named, not Henry. Cassius Clay was quite a man, an abolitionist editor in slave territory. Lincoln sent him as ambassador to Russia to save his life after he had won about as many fights as one man could expect to survive. He'd make a helluva movie, with the X-rated the reality. He had to leave Russian because of an affair with a woman in the Czar's family.

I wander as I remember and I must get to work.

Another item in yesterday's news carried me back, but only four years. You may remember, in the context of the Klandidsmut plea-bargaining, the documents I gave you and others proving he was a practising liar. They were attached to the complaint in the first of my Freedom of Information suits, none ever reported. They have the same record on Mitchell and even include my uncontested and unpunished charges of official perjury. I often wonder if what happened would have been dared if there had been any exposure of this official dishonesty and corruption of which I did have and did provide evidence. Really proof. I got an also unreported summary judgement in that first case.(Pat Gray and Ruckelshaus figured in them officially and I believe unofficially the guy who has just said that when Justice defends Nixon it isn't defending him, Irving Jaffe. I know Jaffe is part of the story that includes your onetime quest, for JFK's brain.) I have another one filed now, also ignored, in which the unreported record is overloaded with the same and I think crosses into both perjury and subornation. With my earlier experiences I do nothing to attract attention to these suits, being able to afford neither the time nor the cost when there is no apparent interest in them. I am content to serve serious purposes and to build a record that may have value only in history. And maybe some day a federal judge will get uptight over somebody other than me.

This one has the potential. And the second one is before the Supreme Court for cert. It will be precedent under the investigatory files exemption. The government has just asked for its second extension. How the press could have ignored what Danaher wrote in his decision I still can't understand. His First-Amendment concept is that a writer should be forever forfended from making inquiry. Or, prior restraint is a blessing. His last words, in caps, were I think unique in a decision, Requiscat in pacem. And he was no JFK partisan, either.

Well, I hope I haven't bored you.

And thanks for the transcripts I asked for.

Sincerely,

P.S. The last time I was in Harlan was the week after World War II started. The UMW then had a resident organizer who has just reached [redacted] career a sick, crippled and ruined man, George Titler. George had the guts to stay in Harlan town. And he made the best Pennsylvania Dutch sauer kraut and ribs I ever tasted, topped off with a guape pie. Sound like a guy that tough? I made the one stop in Harlan, for lunch and a visit, and was certain to get to Bristol before sundown. That was only two years after the killers started killing themselves and some of their friends might have figured out how it all started.